

**MICHAEL A. CARDOZO**  
Corporation Counsel

**THE CITY OF NEW YORK**  
**LAW DEPARTMENT**  
100 CHURCH STREET  
NEW YORK, NEW YORK 10007

**SHAWN D. FABIAN**  
Assistant Corporation Counsel  
E-mail: shfabian@law.nyc.gov  
Phone: (212) 788-0906  
Fax: (212) 788-9776

July 23, 2008

**BY HAND DELIVERY**

Honorable Robert P. Patterson  
United States District Judge  
Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, New York 10007

MEMO ENDORSED

Re: Alethia Henry, et al. v. City of New York, et al., 08 Civ. 5261 (RPP)

Your Honor:

I am an Assistant Corporation Counsel in the Office of Michael A. Cardozo, Corporation Counsel of the City of New York, representing defendant City of New York ("City") in the above-referenced matter,<sup>1</sup> in which plaintiffs allege, *inter alia*, that they were unlawfully searched and falsely arrested. Defendant City writes to respectfully request an enlargement of time to answer or otherwise respond to plaintiffs' complaint from July 16, 2008 until September 12, 2008. I apologize to the Court and to plaintiffs for the lateness of this request; however, this request will not effect the September 12, 2008 Initial Conference date set by the Court. The undersigned left a voicemail message for plaintiffs' counsel, K.C. Okoli, Esq., on July 22, 2008, seeking consent to this request.

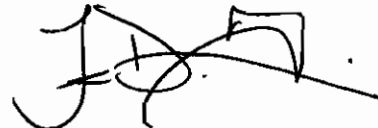
<sup>1</sup> Upon information and belief, the individually named defendant has not yet been served in this matter. Therefore, should the Court grant this enlargement, it should allow plaintiff time to serve the individual defendant. If timely served, it may also give this office time to determine, pursuant to Section 50-k of the New York General Municipal law, and based upon a review of the facts of the case, whether we may represent him. *See Mercurio v. The City of New York, et al.*, 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting *Williams v. City of New York, et al.*, 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)).

There are several reasons for seeking an enlargement of time in this matter. In accordance with this office's obligations under Rule 11 of the Federal Rules of Civil Procedure, we need time to investigate the allegations of the complaint. Further, it is our understanding that the records of the underlying criminal action, including police records, may have been sealed pursuant to New York Criminal Procedure Law § 160.50. Therefore, our office is in the process of forwarding to plaintiffs for execution a consent and authorization for the release of sealed arrest and criminal prosecution records so that defendant City can access the information, properly assess the case, and respond to this complaint.

No previous request for an enlargement to answer has been made by defendant City. Accordingly, defendant City respectfully requests that its time to answer or otherwise respond to the complaint be extended until September 12, 2008.

Thank you for your consideration herein.

Respectfully submitted,



Shawn D. Fabian (SF4606)  
Assistant Corporation Counsel  
Special Federal Litigation Division

cc: K.C. Okoli, Esq. (By First Class Mail)  
*Attorney for Plaintiff*  
330 Seventh Avenue, 15<sup>th</sup> Floor  
New York, New York 10001

*Application Granted  
So ordered  
Rust + Balline  
0-3-0-1  
7/24/08*